



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

NOV 30 2007

SENT VIA FEDERAL EXPRESS OVERNIGHT MAIL

City of Las Cruces  
Dr. Jorge A. Garcia, P.E.  
Utilities Director  
680 Motel Boulevard  
Las Cruces, NM 88005

**Re: Griggs and Walnut Ground Water Plume, City of Las Cruces, Doña Ana County, New Mexico; Site ID No.: HZ; CERCLIS #NM0002271286; Request for Information Pursuant to CERCLA Section 104(e), 42 U.S.C. Section 9604(e)**

Dear Dr. Garcia:

Per your conversation with my staff on October 19, 2007, the U.S. Environmental Protection Agency (EPA) is aware of the City of Las Cruces' concerns regarding its ability to pay for costs at the Griggs and Walnut Ground Water Plume Site (the Site). This letter is to request that the City of Las Cruces (hereinafter the City of Las Cruces is referred to as the "City," "you" or "your") provide certain information regarding your ability to pay the costs of completing the Remedial Design and Remedial Action (RD/RA) for the Site, and to pay past costs for the Site. This request is made under the U.S. Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority.

Working with the City and Doña Ana County, EPA completed a Remedial Investigation and Feasibility Study (RI/FS) that identified the extent of the contaminated ground water plume. The RI/FS also identified protective remedies to address that contamination. As explained in the RI/FS, the ground water is contaminated with the chlorinated solvent tetrachloroethylene (PCE), a hazardous substance. In a June 2007 Record of Decision (ROD), EPA selected a remedy to address the PCE contamination. Now it is time to develop a Remedial Design for the remedy selected in the ROD. After the Remedial Design is complete the Remedial Action will be performed. The EPA is requesting that you provide the information requested in the enclosed document about your ability to pay for RD/RA. The EPA is making this request for information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol "§") 9604(e).

As you are aware, the EPA believes you are liable for the costs associated with the cleanup of the Site under Section 107(a) of CERCLA which is found at 42 U.S.C. § 9607(a). Our belief is based on information available to EPA that indicates you now own or operate part of the Site, or that you owned or operated part of the Site at a time when hazardous substances including, without limitation, PCE were released onto the soil or into ground water at that part of the Site. Although the EPA continues to investigate other potential sources of the PCE contamination, no additional liable responsible parties have been identified at the time this letter was mailed.

Thank you for your attention to this matter. If you have any questions regarding this request, please call Enforcement Officer Courtney Kudla at (214) 665-8008. Legal questions should be addressed to Senior Attorney James E. Costello at (214) 665-8045.

Sincerely yours,

A handwritten signature in cursive script that reads "Samuel Coleman, P.E." followed by the word "Acting" in a smaller, less distinct script.

Samuel Coleman, P.E.  
Director  
Superfund Division

Enclosures: Information Request  
Exhibit 1 - Site map

Cc: Dana Bahar, Project Manager  
New Mexico Environment Department

## INFORMATION REQUEST

The U.S. Environmental Protection Agency (EPA) is making this information request to the City of Las Cruces (hereinafter the City of Las Cruces is referred to as the "City," "you" or "your"), under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund") Section 104(e). CERCLA Section 104(e) may be found in the United States Code ("U.S.C.") at Title 42 Section 9604(e) (section is denoted by the symbol "§").

Compliance with this Information Request is mandatory. **If you do not respond fully and truthfully to this Information Request within 30 calendar days of your receipt of this request, the EPA may issue an order which requires you to respond. If you violate such an order, CERCLA permits EPA to seek the imposition of penalties of up to \$32,500.00 for each day of continued noncompliance. (See Volume 67 of the Federal Register at pages 41,343 through 41,348 (June 18, 2002).)**

Furnishing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. Should you later find that any portion of your submission is incorrect or false, you should notify EPA as soon as possible.

This Information Request is not subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501, et seq.

Please direct your response and any technical questions you may have to:

Ms. Courtney Kudla, Enforcement Officer  
U.S. Environmental Protection Agency, Region 6  
Superfund Enforcement Assessment Team (6SF-TE)  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Telephone: (214) 665-8008  
FAX: (214) 665-6660

Legal questions concerning matters discussed herein should be addressed to:

Mr. James E. Costello, Practice Group Leader  
U.S. Environmental Protection Agency, Region 6  
Office of Regional Counsel (6RC-S)  
1445 Ross Avenue  
Dallas, TX 75202-2733  
Telephone: (214) 665-8045  
FAX: (214) 665-6460

## INSTRUCTIONS

1. Please provide a separate response for each and every question or request for documents listed below in this information request.
2. Precede each response to a question with the question and the number of the question. For example, for question number 1, before your response, you should write or type:

“1. Identify (see Definitions) the person(s) answering these questions on behalf of the City.”
3. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise nonconfidential documents should be identified clearly and may be submitted separately to facilitate identification and handling by EPA. If you make a confidentiality claim, the information covered by that claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in subpart B of 40 the Code of Federal Regulations ("CFR") Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

## DEFINITIONS

Please use the following definitions in interpreting the questions and requests for documents in this Information Request:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any," as in "any documents" for example, shall mean "any and all."
3. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of

memory generally associated with computers and data processing (e.g., a flash drive); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses and telephone numbers, and present or last known job title, position or business.

5. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g., corporation (including state of incorporation), partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.

6. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (e.g., invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

7. The terms "includes," or "including" shall not be construed as words of limitation; that is, they shall be construed such that the phrases "without limitation" or "but not limited to" are implied, unless such phrases are already in place. For example, "including x, y, and z" would be construed as "including without limitation x, y, and z" or as "including, but not limited to, x, y and z," but the phrase "including without limitation x, y and z" would be construed as it reads.

8. The term "you," "your" or the "City" shall mean the City of Las Cruces and its officers, elected officials, managers, employees, contractors, and agents.

9. The term "person" shall mean an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body. See Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).

10. The term "property interest" means any interest in property including but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

11. The terms "Site" shall mean the area that is at least 9,750 feet by 2,250 feet located at and around the intersection of Griggs Avenue and Walnut Street in Las Cruces including without limitation the subsurface area and ground water which underlies the area. The Site is described in the enclosed map (Exhibit 1).

12. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, or 40 CFR Part 300, in which case the statutory or regulatory definitions shall apply.

## QUESTIONS

1. Identify (see Definitions) the person(s) answering these questions on behalf of the City.

2. For each and every question contained herein, identify (see Definitions) all persons (see Definitions) consulted in the preparation of the answer.

3. If you know of information or documents (see Definitions) responsive to any question in this Information Request that are not in your possession, identify (see Definitions) the person (see Definitions) from whom such information or documents may be obtained.

4. Identify (see Definitions) any person (see Definitions) you think may be able to provide a more detailed or complete response to any question contained herein, along with the additional information or documents (see Definitions) that you think they may have.

5. Please provide the following financial data for the three (3) most recent complete fiscal years:

a) From the City's most recent fiscal year's Combined Balance Sheet for All Fund Types and Account Groups, please provide the General Fund's unreserved ending balance.

b) From the City's most recent fiscal year's Combined Statement of Revenues, Expenditures and Changes in Fund Balances for All Governmental Fund Types (i.e., General Fund, special revenue, capital projects, debt service, and special assessment), please provide the sum (if stated separately) of total principal and interest payments.

c) From the most recent fiscal year's Combined Statement of Revenues, Expenditures and Changes in Fund Balances for All Governmental Fund Types (i.e., General Fund, special revenue, capital projects, debt service, and special assessment), please provide the sum of total revenues. Be sure to exclude revenues that are simply transfers between governmental funds.

6. Please provide your most recent estimates of the following:
  - a) Please provide an estimate of the current total market value of taxable property within the City. Do not provide the assessed value. If you have to extrapolate from the assessed value to the market value, attach an explanation of your methodology and calculations.
  - b) Please provide an estimate of the City's property tax collection rate, expressed as a percentage. If you do not have an accurate estimate for the rate, please so state.
  - c) Please provide an estimate of the median household income for the City, including the year of the estimate. State the source of your estimate.
  - d) Please provide an estimate of the median home value for the City, including the year of the estimate. State the source of your estimate.
  - e) Please estimate the population of the City, including the year of the estimate. State the source of your estimate.
  - f) Please provide a prior estimate for population, and the year of estimate. Attach a notation of the source for the prior population estimate if it is not the U.S. Census value.
7. Please provide the following debt statistics:
  - a) Please provide the value for the City's direct net debt. Direct debt is equal to gross debt incurred directly in the name of the City, less debt fully supported from the enterprise fund revenues (i.e., revenue debt), and short-term debt.
  - b) Please provide the value of the City's overall net debt. Overall net debt is equal to direct net debt of the City plus the net debt of overlapping and underlying units of government apportioned in accordance with property valuation. Attach a breakdown detailing the supporting calculation.
  - c) Please provide the City's most recent General Obligation debt rating.
  - d) Please provide the New Mexico State limit for General Obligation debt level. Attach an explanation of the limit's methodology and your calculations. If New Mexico does not limit municipalities' debt levels, simply so state.
8. Please provide the sum of the City's next year's budgeted or anticipated General Fund expenditures plus net transfer out. Attach either the relevant page from the official budget documents, or calculations for anticipated amounts based on prior years' increases.
9. List all liability insurance policies owned by you or by corporations in which you have an interest that may cover the Site, or that did once cover the Site.

10. Please provide a statement explaining how much the City can pay to remediate the Site without suffering undue financial hardship. Please include a description of any unusual financial issues that may not be evident from the City's financial statements and budget (e.g., unplanned catastrophic or emergency projects that will be a financial burden).

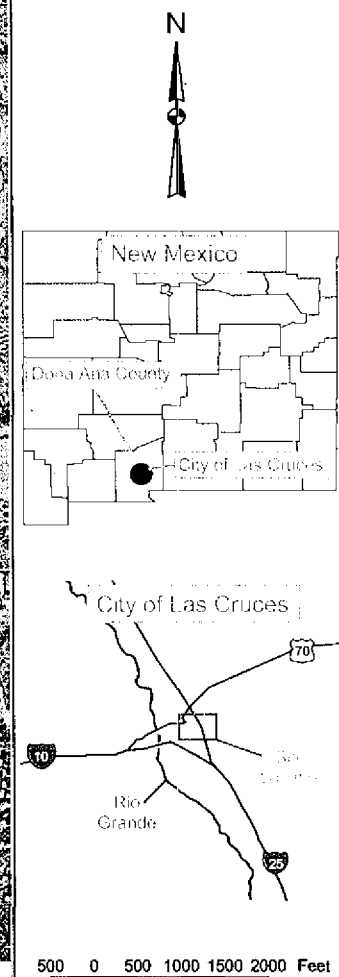
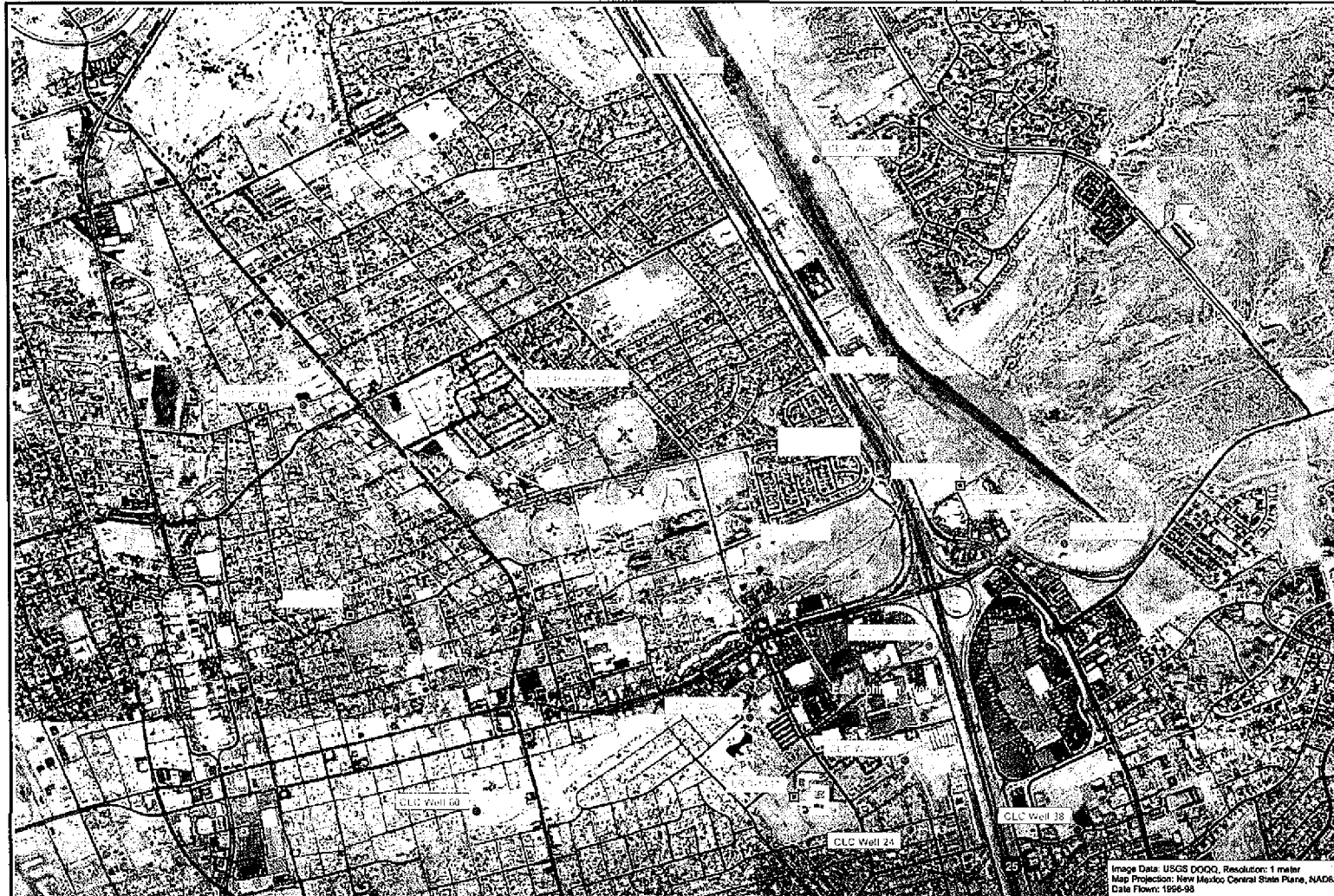
### **REQUEST FOR DOCUMENTS**

Please provide copies of:

- a) the most recent 3 years financial statements,
- b) the current budget, any prospectuses for bonds issued within the most recent 5 years,
- c) all liability insurance policies listed in response to question 9. For each document copy produced in response to this question indicate on the document, or in some other reasonable manner, the number 9.



## **EXHIBIT 1**



# LEGEND

- City of Las Cruces (CLC) Municipal Water Supply Wells:
  - affected by perchloroethylene (PCE)
  - not affected by perchloroethylene (PCE)
 (screen depths of these wells range from 281 to 1,050 feet bgs.)
- Private Irrigation Water Supply Wells:
  - affected by perchloroethylene (PCE)
  - not affected by perchloroethylene (PCE)
 (screen depths of these wells range from 150 to 280 feet bgs. depth of screen information is not available for LRG-1457)

Estimated Extent of PCE Detections

Note 1: The CLC Paz Pack Well is used for irrigation. The other CLC wells illustrated on this map are designated for drinking water supply (not all are used).

Note 2: The table for LRG-3191 is shown in green because historically samples taken from this well have shown the presence of PCE. However, the most recent sample was nondetect for PCE (August 2002).



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Figure 1  
Site Location Map  
Griggs & Walnut Ground Water Plume Site  
Las Cruces, New Mexico